

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE I, ENTITLED, "IN GENERAL," §24-1 ENTITLED, "DEFINITIONS," ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, AND §24-160E.2, SO AS TO REDEFINE ACCESSORY STRUCTURES AND USES, ELIMINATE CERTAIN DEFINITIONS AND DEFINE CERTAIN TERMS, ELIMINATE REFERENCES RELATED TO SIGNS AS ACCESSORY STRUCTURES, AS WELL AS REVISE TERMINOLOGY AND REGULATIONS OF ACCESSORY USES AND STRUCTURES IN THE R-6, R-B, C-B, R-A, R-90, R-90 CLUSTER, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2 AND H-M ZONES, AND FURTHER TO AMEND ARTICLE IV, ENTITLED, "SUPPLEMENTARY ZONE REGULATIONS," §24-163 SO AS TO AMEND STANDARDS AND REQUIREMENTS AS TO ACCESSORY STRUCTURES AND GARAGES GENERALLY.

Text Amendment T-359

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article I, §24-1, Article III, §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-106A, §24-160E.2 and Article IV, §24-163, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

Accessory structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure, and is not attached by any part of a common wall or common roof to the main building.

Accessory use [or structure]. A use [or structure] on the same lot with, and of a nature customarily incidental and subordinate to, the principal use [or structure] of the main building or lot.

Automobile garage, private. An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one of which may be a commercial vehicle. No more than fifty (50) percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises; except, that all of the space in a garage of one or two-car

capacity may be rented]. If the garage is calculated as part of required parking, it must provide unobstructed space for the vehicles.

Automobile parking garage. [public.] A building or portion thereof, other than an automobile salesroom, held out or used for housing of six (6) or more vehicles in connection with multi-family communities or industrial use or center. [where service or repair facilities, if any, are incidental to the principal use for storage.] Such garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts hereof or junk.

[Building, accessory. A building subordinate to and located on the same lot as the main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.]

Building coverage. See lot coverage.

Building line. A line beyond which the foundation wall of the main building or any enclosed porch, vestibule or other enclosed portion of a building shall not project.

Footprint. A designated area covered by the foundation wall of a structure or area of the base on which a structure stands or is supported.

Lot coverage. The net lot area covered by buildings including accessory buildings and covered decks, porches, stoops, and steps. This does not relate to the impervious surface coverage considered in storm water management requirements.

Swimming pool, public. A swimming pool or wading pool, or both, including buildings necessary or incidental thereto, operated for general public use.

[Use, accessory. A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.]

Yard. A required open space unoccupied and unobstructed by the main [any] structure or portion thereof [of a structure]; subject to height limitations as indicated herein.

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

DIVISION 1A. GENERALLY

Sec. 24-22. Permitted and special exception uses.

(b) [Residential zones.] R-6 Zone.

Use

Accessory [buildings] structures and uses ¹

Zone R-6

P

¹ Subject to the provisions of Article IV, §24-163 and §24-24 (5) of this chapter.

(c) Buffer zones

Use

Accessory [buildings] structures and uses

Zone RB

Zone CB

P ¹

P ¹

¹ Accessory structures in these zones are subject to the provisions of §24-24(5) and §24-163. [Notwithstanding the requirements in §24-163, accessory buildings in this zone shall be located in a rear yard (except garages and carports); shall not be located within three (3) feet of any side or rear lot line;] and shall not exceed twenty (20) percent of the maximum allowable building coverage.

DIVISION 1. RA ZONE, LOW DENSITY RESIDENTIAL

Sec. 24-24. Uses permitted by right.

The following uses are permitted by right:

- [(5) Accessory uses and structures, including, but not limited to, home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and private swimming pools.
- (6) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.]
- (5) Accessory uses:
 - (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
 - (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
 - (c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
 - (d) Private swimming pool.
 - (e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (6) Accessory structures must conform to requirements of §24-163 of this Code.

DIVISION 2. R-90 ZONE, MEDIUM DENSITY RESIDENTIAL

Sec. 24-28. Uses permitted by right.

The following uses are permitted by right in the R-90 Zone.

- [(5) Accessory structures and uses, except nurseries, including:

- (a) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

- (b) The renting of rooms to not more than two (2) persons by the occupant of a dwelling, and the provision of table board for such persons.
- (c) Greenhouses, provided, that no products are sold.
- (d) Accessory structures containing less than one hundred twenty (120) square feet of floor area and limited to one story in height shall be exempt from the rear and side yard setback requirements; provided, that any such structure is located within the rear yard and no closer than three (3) feet from any lot line.]

(5) Accessory uses:

- (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
- (d) Greenhouses, provided that no products are sold.
- (e) Private swimming pools.
- (f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures must conform to requirements of §24-163 of this Code.

[(6)](7) Housing for the elderly, included in a conceptual plan as part of an approved annexation agreement with the city, subject to the following conditions:

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[(7)](8) Bed and breakfast subject to the requirements contained in §24-167B.

Sec. 24-30. Cluster development.

The following shall apply to cluster developments in the R-90 Zone:

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- (4) *Permitted uses.* The following uses shall be permitted in a cluster development:

* * *

[(c) Accessory buildings and uses.]

(c) Accessory uses:

- (1) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (2) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (3) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
- (4) Community buildings and bath houses.
- (5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

[(d) Community buildings and bath houses.]

(d) Accessory structures must conform to requirements in §24-163 of this Code.

* * *

[(g) Child or elderly day care facilities as provided in the R-A Zone.]

[(h)](g) Bed and breakfast subject to the requirements contained in §24-167B.

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DIVISION 4. RP-T ZONE, MEDIUM DENSITY RESIDENTIAL

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Sec. 24-43. Permitted uses.

The following uses shall be permitted:

* * *

[(3) Noncommercial recreation facilities primarily for use of residents of the project in which they are located.

(4) Community swimming pools.]

(3) Accessory uses:

(1) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(2) Child or elderly day care facilities in single family detached dwellings or duplexes accommodating not more than eight (8) individuals.

(3) Community swimming pools.

(4) Noncommercial recreation facilities primarily for use of residents of the project in which they are located.

(5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(4) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

[(6) Signs.

a. One sign, not exceeding forty (40) square feet in area, may be erected on or adjacent to any dwelling unit, advertising that unit for sale or lease, and shall be removed not more than ten (10) days after that unit has been sold or leased.

b. One sign, not exceeding forty (40) square feet in area, may be erected at each entrance to a project, advertising the dwelling units contained therein for sale or lease and shall be removed not more than ten (10) days after all units have been sold or leased.]

[(7)](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

[(8)] Accessory uses, including home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and accessory structures.

(9) Child or elderly day care facilities in single-family detached dwellings or duplexes accommodating not more than eight (8) individuals.]

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[(10)](6) Bed and breakfast subject to the requirements contained in §24-167B.

[(11)](7) Public buildings and uses.

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DIVISION 5. R-20 ZONE, MEDIUM DENSITY RESIDENTIAL

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Sec. 24-56. Uses permitted by right.

The following uses are permitted by right in the R-20 Zone:

(1) All uses permitted in the RP-T Zone.

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[(5)] Accessory uses and structures including but not limited to:

(a) Accessory uses and structures permitted in the R-90 Zone.

(b) Business office for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.

(c) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.

(d) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.]

(5) Accessory uses:

- (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
 - (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
 - (c) Child or elderly day care facilities in single-family detached dwelling units or duplexes accommodating not more than eight (8) individuals.
 - (d) Business office, accessory to the main use, for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.
 - (e) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.
 - (f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- [(6) Child or elderly day care facilities in single family detached dwelling units or duplexes accommodating not more than eight (8) individuals.]
- (6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

DIVISION 6. R-18 ZONE, MEDIUM DENSITY PLANNED RESIDENTIAL

Sec. 24-66. Permitted uses.

The following uses shall be permitted in the R-18 Zone:

- [(4) Swimming pools, private or community, bath houses and community buildings.]
- [(5)](4) Churches and temples, but no related religious facilities such as seminaries and convents.

- [(6)] Child day care centers accommodating not more than six (6) individuals.
- (7) Temporary sales office and permanent management office for project.
- (8) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (9) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]

(5) Accessory uses:

- (a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.
- (b) Child day care centers accommodating not more than six (6) individuals.
- (c) Temporary sales office and permanent management office for project.
- (d) Swimming pools, private or community, bath houses and community buildings.
- (e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

- (6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code

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- [(10)](7) Satellite television antenna and towers, poles and antennas or other structures intended for use in connection with transmission or receipt of radio or television signals or both, subject to the provisions of §24-167A of this Code.

- [(11)](8) Bed and breakfast subject to the requirements contained in §24167B.

DIVISION 7. R-H ZONE, HIGH DENSITY RESIDENTIAL

Sec. 24-75. Permitted uses.

The following uses shall be permitted in the R-H Zone:

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[(3)] (3) Recreational facilities for the use of residents of dwellings located in the same project.]

[(4)](3) Personal service businesses such as barbershops, beauty shops, valet shops, newsstands and snack bars, and office for physicians, dentists, attorneys, accountants, real estate brokers or insurance brokers. Such uses may only be located on the first two (2) stories of buildings containing more than three (3) stories and they may have no exterior entrances open to the public or signs visible from outside of the building.

[(5)](4) Restaurants (Class C) that are incidental to and located within the same structure.

[(6)](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provision of §24-167A of this code.

[(7)] (7) Home based business authorized pursuant to Article X, Chapter 24 of this Code.

(8) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]

(6) Accessory uses:

a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.

b) Recreational facilities for the use of residents of dwellings located in the same project.

c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(7) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

[(9)](8) Bed and breakfast subject to the requirements contained in §24-167B.

[(10)](9) Public buildings and uses.

[(11)](10) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of §24-167A(C)(1).

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DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

Sec.24-102. Uses.

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the C-P Zone, except for one or more of the following uses:

A. *Uses permitted by right.*

* * *

(2) Accessory uses and structures [and uses] in compliance with §24-163 of this Code.

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DIVISION 11. C-1 ZONE, LOCAL COMMERCIAL

Sec. 24-111. Uses permitted by right.

The following uses are permitted by right in the C-1 Zone:

* * *

(7) Accessory uses and structures in compliance with §24-163 of this Code.

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DIVISION 12. C-2 ZONE, GENERAL COMMERCIAL

Sec. 24-117. Uses permitted by right.

The following uses are permitted by right in the C-2 Zone:

- (14) Accessory uses and structures [and uses, including but not limited to on-site signs permitted in C-1 Zone; except, that signs shall not exceed in the aggregate fifteen (15) square feet of area for each ten (10) linear feet of street frontage] in compliance with §24-163 of this Code.

DIVISION 13. C-3 ZONE, HIGHWAY COMMERCIAL

Sec. 24-123. Permitted uses.

The following uses are permitted in the C-3 Zone:

- (5) Accessory structures must conform to requirements of §24-163 of this Code.

DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

Sec. 24-136. Uses permitted by right.

The following uses are permitted by right in the I-1 Zone:

- (1) Accessory uses [and structures, including, but not limited to]:

- (a) Retail sales of products manufactured on the premises.
- (b) Living quarters for owners, caretakers or watchmen and their families.
- (c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

- (2) Accessory structures must conform to requirement of §24-163 of this Code.

[(2)](3) Agricultural uses.

[(3)](4) Bed and breakfast, subject to the requirements contained in §24-167B.

[(4)](5) Off-street parking.

[(5)](6) Pipelines.

[(6)](7) Public buildings and uses.

[(7)](8) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

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DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT

Sec. 24-151. Permitted uses.

The following uses are permitted in the E-1 Zone:

* * *

(18) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(19) Accessory structures must conform to requirements of §24-163 of this Code.

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DIVISION 18. E-2 ZONE, MODERATE INTENSITY INDUSTRIAL PARK

* * *

Sec. 24-160A. Permitted uses.

- (1) all uses permitted by right in the E-1 Zone, except general offices.
- (2) Ambulance or rescue squads, publicly supported.
- (3) Bed and breakfast subject to the requirements contained in §24-167B.
- (4) Communications centers.
- (5) Fire stations.
- (6) Hospitals, veterinary.
- (7) Laboratories.
- (8) Recreational facilities, primarily for the use of employees, provided such use does not adjoin any street which provides principal access to the principal use or user served.

[Signs, in accordance with city sign regulations.]

- (9) Trade, artistic and technical schools.

[Accessory buildings and uses.]

- (10) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

- (11) Accessory structures in compliance with §24-163 of this Code.

- (12) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements to §24-167A(C)(1).

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DIVISION 20. H-M ZONE, HOTEL-MOTEL

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Sec. 24-160E.2. Uses and special exceptions allowed.

- (a) The following uses are permitted uses in [this zone] the H-M Zone:

[Accessory buildings and uses.]

- (1) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (2) Accessory structures must conform to requirements of §24-163 of this Code.
- (3) Banks and financial institutions.
- (4) Bed and breakfast subject to the requirements contained in §24-167B.
- (5) Eating and drinking establishments, excluding a drive-in.
- (6) Motels.
- (7) Hotels, full service.
- (8) Hotel, limited service.
- (9) Hotel, extended stay.
- (10) Parking of motor vehicles, off-street, in connection with any use permitted.
- (11) Publicly owned or publicly operated uses.
- (12) Retail sales and personal services, subject to restrictions in §24-160E.3(G).

ARTICLE IV. SUPPLEMENTARY ZONE REGULATIONS

Sec. 24-163. Accessory [buildings and] structures and garages.

(a) Accessory structures. Any accessory [building or] structure, as defined in §24-1, with the exception of a garage, shall be located only in the rear yard. [and the] The total ground area of all accessory [buildings and] structures shall occupy no more than twenty-five (25) percent of the rear yard. Except for fences, on all residentially-zoned land accessory structures less than 144 square feet of floor area shall not be less than three (3) feet from any lot line unless allowed by a specific zone. Accessory [buildings and] structures 144 square feet of floor area or greater shall not be less than ten (10) feet from any side or rear lot line [;]. [provided however, that] In cases where an accessory [building,] structure, enclosure, coop or run or any part thereof is used for the housing, shelter or sale of animals or fowl, other than a

household pet, said structure shall be at least twenty-five (25) feet from any [interior] side or rear lot line and at least seventy-five (75) feet from any existing dwelling on an adjoining lot, except for fences on all residentially-zoned land. The footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure, except garages as noted in §24-163(b), nor can the height exceed fifteen (15) feet, unless approved by the Planning Commission. [Garages may be located in any front, side or rear yard area, but may only be located in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.]

(b) Garages, as accessory structures in residential zones:

- (1) Garages, as accessory structures, are those that are detached structures or attached to the main house only by a breezeway.
- (2) Garages shall not be less than ten (10) feet from any side or rear lot line.
- (3) Garages may also be located in any front or side yard area, and/or in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.
- (4) The footprint of the garage must not exceed fifty (50) percent of the footprint of the primary structure or a standard size two-car garage not to exceed 576 square feet, whichever is greater, nor must the height exceed fifteen (15) feet unless approved by the Planning Commission. In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.

(c) These restrictions do not apply to Schematic Development plans, final site plans or other plans for an approved residential community in the MXD (Mixed Use Development) Zone.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2003.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day
of _____, 2003. APPROVED/VETOED by the Mayor of the City of
Gaithersburg, Maryland this _____ day of _____, 2003.

SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing
Ordinance was adopted by the City
Council of Gaithersburg, in public
meeting assembled, on the _____ day
of _____, 2003 and the
same was APPROVED/VETOED by the
Mayor of the City of Gaithersburg on the
_____ day of _____, 2003.
This Ordinance will become effective on
the _____ day of _____, 2003.

DAVID B. HUMPTON, City Manager

SHARED\PLANCODE\TEXT AMENDMENTS\T-359-DRAFT II